UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1999/NGO/33
29 January 1999

ENGLISH
Original: FRENCH

COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 7 of the provisional agenda

THE RIGHT TO DEVELOPMENT

Written statement submitted by North-South XXI, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council Resolution 1996/31.

[11 January 1999]

GE.99-10579 (EXT)

The UNDP Human Development Report and the draft Multilateral Agreement on Investment (MAI)

1. The UNDP Human Development Report, published in September 1998, is a basic reference work which the Commission on Human Rights would do well to take into account. This report highlights indicators (right to health, right to food, right to housing, right to education, etc.) that are indissociable from all other human rights, despite the claims of some who, since the Universal Declaration of Human Rights in 1948, have adopted a one-sided interpretation of human rights which perceives them as restricted to civil and political rights.

2. The UNDP report states that since 1990 the numbers of the poor have continued to mount, as the level of international aid has fallen. It exposes the deep-seated inequalities and concentration of wealth in the hands of a minority which are basic features of international society. It shows that a less inequitable distribution of that wealth would provide a positive answer to all the planet's fundamental social problems.

3. If the report is heeded, it would be impossible for western ideologues and the States to which they belong to persist in differentiating between categories of human rights. The UNDP report underscores the urgency of transforming the 1993 Vienna Declaration (on human rights) and the 1995 Copenhagen Declaration (on social development) into binding conventions that strip any hierarchical organization of civil and pòlitical rights and economic and social rights of all legitimacy.

4. The determination to transform NGOs, as part of the globalization process, into charitable bodies designed to serve as a "dressing for the social wounds" inflicted by "all-out liberalism" harks back to the nienteenth century, to the era of human damage provoked by the industrial revolution. The determination to limit the question of human rights to political freedom alone, as part of a budding "North-South" (as opposed to "East-West") confrontation, merely gives voice to the eagerness of the powers of the North to cling to legitimacy, as well as enjoying favourable power relations.

5. The relegation of the "right to development" is no more than a manoeuvre made possible by disparate international relations. The Commisson on Human Rights must endorse the UNDP data; it must draw all the necesary inferences in its approach to human rights and make the UNDP annual report one of its basic working documents.

6. The world decision-making institutions' more or less overt resolve to hang on to a profit system founded on unequal international relations at any price is currently expressed by summit agreements that are at odds with the vital interests and fundamental rights of the populations concerned. So it is that not only are the countries of the South refused the "right to development", but the grounds for that right are increasingly contested in the developed countries, in the name of the liberal logic of globalization.

7. The draft Multilateral Agreement on Investment (MAI) negotiated in the absence of the South and modelled on ALENA - itself criticized by American trades unions (two million jobs cut on its account) - is peparing a new retreat by the States in the face of the financial and industrial powers. The MAI

promotes the transnationals to the rank of State, conferring on them rights that ignore borders and protecting them from any decisions States may take. All the provisions of the draft agreement ensure that no constraints whatsoever are place on "investors".

8. As former French minister Egar Pisani put it, for the MAI, "the world is nothing but economic; individuals and human society are at its service; any claim they may make is seen as injurious and unlawful; any social welfare, any personal promotion, is seen as perverse and any sense of identity incapacitating"; the Governments' only role is to guarantee the freedom and profits of the leading economic actors alone".

9. The agreement provides for non-discrimination between foreign and national investors, rendering the protection of national interests unlawful (including in the field of culture) for the greater profit of the most powerful investors, many of whom are obviously American. Any safeguard clause is excluded. Free movement of capital is ensured. Expropriated investors are given an absolute guarantee of top compensation rates. When nationalized companies are privatized the transnationals receive "national treatment"; in other words, they can freely purchase any country's national heritage. The public services are doomed: in order to save the firms from any difficult competition, they are obliged to bow to "commercial considerations" and nothing else. The firm can take the State to court, not the other way around.

10. While businesses are firmly guaranteed freedom of policy, no provisions have been made for the workers, for social rights or the protection of the populations' cultural identity. There are no plans for a social clause that would make observance of international labour laws obligatory (freedom of association, freedom to form trade unions and freedom of negotiation, non-discrimination among wage-earners, prohibition of forced labour, etc.). No sector has escaped the MAI: hence, community health and social welfare have been transferred to a "health market" that is highly attractive to specialized American markets. Workers are denied privileged access to shares in their privatized companies. Any social measure deemed too costly for the investor will be a "mistake" according to the MAI; the "mistake" is actually that of the authorities once they cause a firm to miss an opportunity for profit!

11. In a word, the MAI represents a decisive stage in the decline of social, economic and cultural rights. It plans to deepen inequalities, "which", as OECD would have it, "is required by economic logic"! It also envisages the decline of the State, of sovereignty in the face of the private financial powers and of each people's cultural identity: "the MAI", as OECD acknowledges, "like any binding international agreement, will have the effect of moderating the exercise of national authority". The States of the South - excluded from the negotiations - are evidently also affected since the MIA contains obligations applicable to everyone.

12. The OECD member States that had begun the MAI negotiations are the very ones that signed the Commitments of the Copenhagen Declaration on Social Development in 1995, recognizing the "absolute priority of social issues". It is those very States that publicly approve major advances and consign social rights to a non-binding declaration, while secretly negotiating a binding agreement that embodies the opposite principles. Conclusion of the MAI would

rob the debates on the evolution of the right to development and the other social rights designed to enforce the international instruments that guarantees them of all significance.

13. The negotiations were suspended because of public opinion's reaction to the MAI. The suspension can only be temporary, given the draft's strategic importance for the major transnational investors. The World Trade Organization (WTO) would appear to be the United States' preferred framework for the resumption and conclusion of the negotiations.

14. The Commission on Human Rights is asked to take up the question of the draft MAI in order to expose the profound incompatibility of its provisions with those of the international instruments concerning economic and social rights, especially the right to development, and to inform organizations like WTO which are shortly to be entrusted with its implementation.